

Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 22, 2020** which reads as follows:*

**“G.R. No. 231614 – (The People of the Philippines v. Joel Clemente y Hernandez)**

**The Case**

This appeal<sup>1</sup> seeks to reverse and set aside the Decision<sup>2</sup> dated October 25, 2016 of the Court of Appeals in CA-G.R. CR No. 07407 affirming the conviction against appellant Joel Clemente y Hernandez for murder.

**The Proceedings before the Regional Trial Court**

*The Charge*

Appellant was charged with Murder in relation to Republic Act No. 9262<sup>3</sup> (RA No. 9262) under the provisions of Article 248 of the

<sup>1</sup> Rollo, pp. 14-16. Filed under Section 13(c), Rule 124 of the Rules of Court.

<sup>2</sup> Penned by Associate Justice Francisco P. Acosta and concurred in by Associate Justices Noel G. Tijam and Eduardo B. Peralta, Jr., *Id.* at 2-13.

<sup>3</sup> *Anti-Violence Against Women and Their Children Act of 2004.*

\* The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to R.A. No. 7610, "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes"; R.A. No. 9262, "An Act Defining Violence Against Women and their Children Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes"; Section 40 of A.M. No. 04-10-11 SC known as the "Rule on Violence Against Women and their Children", effective November 5, 2004; *People v. Cabalquinto*, 533 Phil. 703, 709 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances

Revised Penal Code (RPC), for killing his live-in partner "AAA."\*  
The Amended Information<sup>4</sup> reads:

That on or about the 26<sup>th</sup> day of October, 2007, in the City of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill [AAA], with evident premeditation, treachery, abuse of superior strength, ignominy, and cruelty, did then and there willfully, unlawfully and feloniously attack, assault, punch and kick said [AAA], live-in-partner of the accused, hitting her on the different parts of her body and inflicting upon her serious physical injuries which directly caused the death of the said [AAA].

Contrary to Law.

The case was raffled to the Regional Trial Court (RTC)-Branch 77, Malolos City, Bulacan. On arraignment, appellant pleaded not guilty. Trial thereafter ensued.

*Version of the Prosecution*

In the morning of October 26, 2007, AAA went to her parents' house to help her mother sell cooked food. Around 10 o'clock in the morning, she went home to appellant's house where they lived together with her son BBB.<sup>5</sup> AAA arrived there around noon time and found appellant already drunk.<sup>6</sup>

BBB, then playing outside the house, heard appellant and AAA arguing. Appellant was mad and yelling at AAA for there was no food to eat.<sup>7</sup> BBB sneaked inside the house and saw appellant mauling AAA. Appellant punched AAA three (3) times, hitting her in the face, in the right temple. Appellant also kicked AAA and continued mauling her despite her pleas.<sup>8</sup>

AAA tried to escape but appellant chased her and grabbed her hair as she was heading out of the house. Appellant continued mauling AAA outside their house even while BBB and their neighbors were watching. Nobody managed to help AAA because appellant threatened to kill anyone who would meddle in their fight.<sup>9</sup> When AAA fainted, appellant stopped mauling her and carried her to the bathroom. Appellant bathed AAA. When AAA regained

<sup>4</sup> Record, pp. 99

<sup>5</sup> TSN, September 23, 2009, p. 4.

<sup>6</sup> TSN, November 7, 2012, p. 12-14.

<sup>7</sup> *Id.* at 14.

<sup>8</sup> *Id.* at 7.

<sup>9</sup> *Id.* at 17-19.

consciousness, appellant brought her back to their room and made her sleep.<sup>10</sup>

Around 6 o'clock in the evening, BBB noticed that AAA was having trouble breathing and her hands were cold. BBB tried to wake her up and applied Katinko oil on her stomach. He also woke up appellant. Appellant then brought AAA to the hospital, leaving BBB in the house.<sup>11</sup>

Around 7 o'clock in the evening, AAA's parents received a call from the hospital, telling them to go to the morgue as their daughter was already dead.<sup>12</sup>

The following day, Dr. Victor Antonino Batanes did a post mortem examination on AAA's body and found that AAA sustained multiple physical injuries, several abrasions and hematoma throughout her body, particularly in her head and face, which led to massive intracranial hemorrhages or a bleeding of the brain that resulted in her death. He explained that any external blunt force is sufficient to cause bleeding of the brain, including a fist blow in the head.<sup>13</sup>

#### *Version of the Defense*

Appellant testified that around 7 o'clock in the morning of October 26, 2007, he was on his way to work when their neighbor Rosietold him that AAA was having an affair with another man. AAA was allegedly giving her (Rosie's) daughter and BBB money so that whenever they see appellant coming, they should warn AAA. This made him angry at AAA.<sup>14</sup>

Around 10 o'clock in the morning, he was already home, drinking liquor while waiting for AAA. When AAA arrived, he confronted AAA but the latter denied the accusation. AAA angrily went outside the house, picked up a piece of hollow block and threw it at him. They started fighting and hitting each other. He slapped her, chased her, and told her to go back inside the house to avoid scandal. AAA tripped, fell on the floor with her headfirst, and, as a result, bruised her forehead. When he saw AAA's head bleeding, he told BBB to get a cloth to wipe off the blood. AAA then ran away so he chased and pulled her back into their house. But AAA bumped her face against her knees until he calmed her down and brought her back

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<sup>10</sup> *Id.* at 8-9.

<sup>11</sup> *Id.* at 10-11, 25-27.

<sup>12</sup> TSN, September 23, 2009, p. 4.

<sup>13</sup> TSN, May 30, 2012, pp. 5-6.

<sup>14</sup> *Rollo*, p. 4.

inside their house. When they got inside their house, they took a bath together and slept in their room together with BBB.<sup>15</sup>

When he woke up around 6 o'clock in the evening, AAA was hugging him and still sleeping. After cleaning the kitchen, he returned to their room and tried to wake up AAA. At this point, BBB woke up and told him that he heard AAA groaning. Rosie and another neighbor helped him bring AAA to the hospital, where AAA later died. He, together with his mother and uncle, went to the police station to report the incident.<sup>16</sup>

### **The Ruling of the Regional Trial Court (RTC)**

In its Decision<sup>17</sup> dated February 18, 2015, the Regional Trial Court (RTC)-Branch 77, Malolos City, Bulacan found appellant guilty of Physical Harm constituting murder under Section 5(a) of RA No. 9262, viz.:

Dahil sa lahat ng nabanggit, ang nasasakdal na si Joel Hernandez Clemente ay napatunayan sa ibayo ng makatwirang alinlangan na NAGKASALA sa krimeng karahasang pisikal na bumubuo ng asasinato o sadyang pagpatay sa ilalim ng Pangkat 5(a) ng RA 9262, na sinusugan. Siya ay:

(1) HINAHATULAN ng reclusion perpetua, ng walang karapatan sa parole; at

(2) INUUTUSAN ding magbayad sa mga tagapagmana ng biktimang si [AAA] ng ₱75,000 (sic) civil indemnity, ₱50,000 (sic) moral na kapinsalaan at ₱30,000 pambabalang kapinsalaan. Ang bawat halagang nabanggit sa itaas ay may 6% interes kada taon mula sa pagiging pinal ng desisyon na ito hanggang sa lubos na mabayaran.

Ipinag-uutos.

The trial court noted there was no showing that BBB was impelled by ill will when he positively testified against appellant as the person who slayed his mother.

### **The Proceedings before the Court of Appeals**

On appeal, appellant faulted the trial court for convicting him despite the alleged inconsistencies or contradictions in the

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 5.

<sup>17</sup> CA rollo, pp. 45-50; Record, pp. 316-326.

prosecution's evidence, particularly in BBB's testimony.<sup>18</sup>

The Office of the Solicitor General (OSG), on the other hand, riposted that the prosecution had sufficiently established appellant's guilt of the offense of violence against women and their children under Section 5(a) of RA 9262 constituting murder under Article 248 of the Revised Penal Code (RPC). Appellant should also pay a fine as RA 9262 imposes both imprisonment and fine for offenses involving violence against women and their children.<sup>19</sup>

### **The Ruling of the Court of Appeals**

By Decision<sup>20</sup> dated October 25, 2016, the Court of Appeals affirmed. It sustained the trial court's factual findings on the credibility of the witnesses and its assessment of the evidence on record, including the existence of the qualifying circumstances of evident premeditation and abuse of superior strength.

Pursuant to RA 9262, the Court of Appeals further imposed a fine of P100,000.00 and ordered appellant to undergo psychological counseling and to report to the trial court his compliance therewith.

### **The Present Appeal**

Appellant now seeks affirmative relief from the Court and prays anew for a verdict of acquittal. In compliance with Resolution<sup>21</sup> dated July 17, 2017, both appellant and the People manifested<sup>22</sup> that, in lieu of supplemental briefs, they were adopting their respective briefs filed before the Court of Appeals.

### **Issue**

Did the Court of Appeals err in affirming the trial court's verdict of conviction?

### **Ruling**

RA 9262 defines "violence against women and their children" as any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he

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<sup>18</sup> *Rollo*, pp. 6-7.

<sup>19</sup> *CA rollo*, pp. 56-74.

<sup>20</sup> *Rollo*, pp. 2-13.

<sup>21</sup> *Id.* at 20-21.

<sup>22</sup> *Id.* at 22-26, and 27-29.

has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which results in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.<sup>23</sup>

Section 5(a) in relation to Section 6(a) specifically provides that when the acts of violence committed by causing physical harm to the woman constitute murder, the same shall be punished in accordance with the provisions of the Revised Penal Code, with the additional penalty of fine and mandatory psychological counseling, viz.:

**Section 5. Acts of Violence Against Women and Their Children.** - The crime of violence against women and their children is committed through any of the following acts:

(a) Causing physical harm to the woman or her child;

x x x                      x x x                      x x x

**Section 6. Penalties.** - The crime of violence against women and their children, under Section 5 hereof shall be punished according to the following rules:

(a) Acts falling under Section 5(a) constituting attempted, frustrated or consummated parricide or murder or homicide shall be punished in accordance with the provisions of the Revised Penal Code.

x x x                      x x x                      x x x

In addition to imprisonment, the perpetrator shall (a) pay a fine in the amount of not less than One hundred thousand pesos (P100,000.00) but not more than three hundred thousand pesos (P300,000.00); (b) undergo mandatory psychological counseling or psychiatric treatment and shall report compliance to the court.

Here, the evidence sufficiently established that appellant committed acts of violence against AAA and these acts constitute murder. Considering that appellant and AAA were live in partners, the trial court correctly found appellant liable under RA 9262. The proper nomenclature of the crime, however, should be "violation of Section 5(a) in relation to Section 6(a) of RA 9262, constituting murder under Article 248 of the Revised Penal Code."

The trial court gave greater weight to BBB's positive, clear, and categorical testimony over appellant's denial. BBB was present when

<sup>23</sup> Section 3(a), RA 9262.

the mauling incident took place. He vividly narrated how appellant viciously and repeatedly mauled AAA, resulting in the latter's demise.

It is settled that the trial court's factual findings carry great weight and respect due to the unique opportunity afforded it to observe the witnesses when placed on the stand.<sup>24</sup> Indeed, in the absence of a clear showing that the trial court overlooked or misconstrued some material facts or committed grave abuse of discretion, the appellate court will not disturb such factual findings.<sup>25</sup> This rule finds an even more stringent application where these factual findings are sustained by the Court of Appeals.<sup>26</sup>

Anent the qualifying circumstances, the trial court correctly found that the killing was attended by evident premeditation and abuse of superior strength. According to the trial court, sufficient time had elapsed between appellant's inception of the plan to inflict death-causing injuries to and kill AAA and its fulfillment. From 7 o'clock in the morning when appellant heard about AAA's alleged illicit affair with another man, to the time he got mad at AAA, waited for AAA while drinking liquor, confronted AAA when the latter arrived home, and until he viciously mauled AAA around noon time, appellant had ample time to meditate, hatch his plan to maul and kill AAA, and execute the same.<sup>27</sup> He tenaciously persisted in accomplishing his plan and only stopped mauling AAA when the latter fainted.

Too, being bigger than AAA, appellant had greater natural strength over AAA and was even made physically stronger by his work as mason, carpenter, and welder. Appellant took advantage of this notorious inequality of forces between him and AAA when he viciously and persistently mauled AAA.

The trial court's findings on the existence of these aggravating circumstances were not contested on appeal. The Court of Appeals ruled that it is bound by these findings absent any showing that the trial court overlooked and misappreciated the facts.<sup>28</sup>

As for the penalty, pursuant to Section 6 (a) of RA 9262, the acts of violence committed by appellant against AAA constitute the crime of murder defined and penalized under Article 248<sup>29</sup> of the

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<sup>24</sup> *People v. Tulagan*, G.R. No. 227363, March 12, 2019.

<sup>25</sup> *People v. Guihama*, 452 Phil. 824, 840 (2003).

<sup>26</sup> *Supra* note 24.

<sup>27</sup> *CA rollo*, p. 49.

<sup>28</sup> *Rollo*, pp. 10-11.

<sup>29</sup> Article 248, pertinently provides:

Revised Penal Code. The law imposes the penalty of *reclusion perpetua* to death. In view of the aggravating circumstances of evident premeditation and abuse of superior strength, the death penalty would have been imposed on appellant were it not for the enactment of Republic Act No. 9346 (RA 9346)<sup>30</sup> prohibiting the imposition of death penalty in the country. Consequently, the trial court correctly sentenced appellant to *reclusion perpetua* without eligibility for parole in accordance with Section 3<sup>31</sup> of RA 9346.

In addition to imprisonment, Section 6 of RA 9262 also provides for the penalty of fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Three Hundred Thousand Pesos (P300,000.00) and mandatory psychological counseling. The Court of Appeals, thus, correctly ordered appellant to pay a fine of One Hundred Thousand Pesos (P100,000.00) and to undergo psychological counseling.

It is settled that actual damages cannot be presumed but must be proved with reasonable degree of certainty.<sup>32</sup> Here, the Court could not find any basis for the grant of actual damages. Hence, the same cannot be awarded. Nonetheless, the heirs of the deceased are presumed to have spent for AAA's interment.<sup>33</sup> Thus, although AAA's heirs neither alleged nor proved the exact amount of their pecuniary loss, they are entitled to temperate damages<sup>34</sup> of Fifty Thousand Pesos (P50,000.00).<sup>35</sup>

Finally, pursuant to prevailing jurisprudence,<sup>36</sup> the awards of civil indemnity and moral and exemplary damages here should be

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Art. 248. Murder. - Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

x x x                      x x x                      x x x

5. With evident premeditation.

x x x                      x x x                      x x x

<sup>30</sup> An Act Prohibiting the Imposition of Death Penalty in the Philippines.

<sup>31</sup> Sec. 3. Persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

<sup>32</sup> *Heirs of Asis, Jr. v. G.G. Sportswear Manufacturing Corp.*, G.R. No. 225052, March 27, 2019.

<sup>33</sup> *People v. Oandasan*, 787 Phil. 139, 165 (2016).

<sup>34</sup> Article 2224 of the Civil Code.

<sup>35</sup> *People v. Jugueta*, 783 Phil. 806, 846-847(2016).

<sup>36</sup> *Id.* at 847, 853,

"I. For those crimes like, Murder, Parricide, Serious Intentional Mutilation, Infanticide, and other crimes involving death of a victim where the penalty consists of indivisible penalties:

1.1 Where the penalty imposed is death but reduced to *reclusion perpetua* because of RA 9346:

a. Civil indemnity — P100,000.00



increased to One Hundred Thousand Pesos (P100,000.00) each. All the items of civil liability imposed herein shall earn an interest of six percent (6%) *per annum* from the date of the finality of this Resolution until fully paid.

**ACCORDINGLY**, the appeal is **DISMISSED**. The Decision dated October 25, 2016 of the Court of Appeals in CA-G.R. CR No. 07407 is **AFFIRMED** with **MODIFICATION**. Appellant is found **GUILTY** of Violation of Section 5(a) in relation to Section 6(a) of RA 9262, constituting Murder under Article 248 of the Revised Penal Code and is sentenced to *reclusion perpetua* without eligibility for parole.

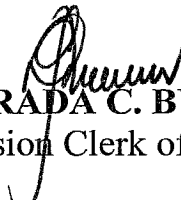
Appellant is further **ORDERED** to pay a fine of P100,000.00 and to undergo psychological counseling and report to the Regional Trial Court, Branch 77, Malolos City, Bulacan, his compliance therewith.

Appellant is also **DIRECTED** to pay AAA's heirs P100,000.00 as civil indemnity, P100,000.00 as moral damages, P100,000.00 as exemplary damages, and P50,000.00 as temperate damages.

These monetary awards shall earn six percent (6%) interest *per annum* from finality of this resolution until fully paid.

**SO ORDERED."**

Very truly yours,

  
**LIBRADA C. BUENA**  
 Division Clerk of Court

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b. Moral damages — P100,000.00

c. Exemplary damages — P100,000.00.

x x x

x x x

x x x

VII. In all of the above instances, when no documentary evidence of burial or funeral expenses is presented in court, the amount of P50,000.00 as temperate damages shall be awarded."



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The Presiding Judge  
Regional Trial Court, Branch 77  
Malolos City, 3000 Bulacan  
(Criminal Case No. 3413-M-2007)

Mr. Joel Clemente y Hernandez  
Accused-Appellant  
c/o The Director General  
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